

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

CRL.A.No. 1218 of 2001()

CC.324/1999 of JUDL.MAGISTRATE OF FIRST CLASS-I, THAMARASSERY

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APPELLANT:

THUDARAPPUZHA MUHAMMED,
S/O. IBRAHIM, PUTHUPPADY AMSOM DESOM,
KOZHIKODE.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

1. K.K. MUHAMMED, S/O. HAMZA,
THUDARAPUZHA HOUSE, PUTHUPPADY AMSOM,
AND DESOM OF KOZHIKODE TALUK.
2. SAINABA, W/O. K.K. MUHAMMED,
THUDARAPUZHA HOUSE, PUTHUPPADY AMSOM
AND DESOM OF KOZHIKODE TALUK.
3. K.K. PATHUMMA, D/O. HAMZA,
THUDARAPUZHA HOUSE, PUTHUPPADY AMSOM
AND DESOM OF KOZHIKODE TALUK.
4. K.K. SUBAIR, S/O. HAMZA,
THUDARAPUZHA HOUSE, PUTHUPPADY AMSOM.
AND DESOM OF KOZHIKODE TALUK.
5. K.K. AYISHA, D/O. HAMZA,
THUDARAPUZHA HOUSE, PUTHUPPADY AMSOM,
AND DESOM OF KOZHIKODE TALUK.
6. K.K. KADEEJA, D/O. HAMZA,
THUDARAPUZHA HOUSE, PUTHUPPADY AMSOM
AND DESOM OF KOZHIKODE TALUK.

7. K.K. SATHAR, S/O/ HAMZA,
THUDARAPUZHA HOUSE, PUTHUPPADY AMSOM
AND DESOM OF KOZHIKODE TALUK.
8. K.K. SUHARA @ AMMOM UMMA,
THUDARAPUZHA HOUSE, PUTHUPPADY AMSOM
AND DESOM OF KOZHIKODE TALUK.
9. STATE OF KERALA REP. BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R1,2,4 TO 6 - BY ADV. SRI.C.J.JOY
R9- BY P.P.SRI. S. DILEEP

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K. THANKAPPAN, J.

CRL.A.NO.1218 OF 2001

Dated this the 7th day of June, 2007.

JUDGMENT

This is an appeal filed against the acquittal judgment passed in C.C.No.324/1999 on the file of the Judicial Magistrate of First Class-I, Thamarassery. By the impugned judgment, the trial court found that the appellant/complainant failed to prove the case against the respondents/accused. The learned magistrate also considered the supporting evidence given by Pws 2 to 4. Their evidence also has been found unreliable. In the above circumstances that the acquittal was ordered.

Special leave has been granted in this matter on 3.12.2001. In the appeal, notice was already ordered and the notice ordered was returned by stating that notice to the 8th respondent has been returned as he was in Gulf countries and no steps have been taken to serve notice to the 8th respondent. Hence, the appeal remains defective. This Court had taken the file for further consideration on 7.3.2007. On that day this Court further granted two weeks' time as last chance. But still, no steps have been taken. Subsequently, the

case was posted to 4.6.2007. It is noted that no steps were taken on that date also. Finally the case was posted as defective on 6.6.2007. On 6.6.2007 the counsel was heard and found that the defect is not cured hitherto. No purpose will be served if the appeal is adjourned. In the above circumstances, the appeal stands dismissed for non-prosecution.

K. THANKAPPAN, JUDGE.

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K. THANKAPPAN, J.

CRL.A.NO.1218 OF 2001-A

JUDGMENT

7th June, 2007.